

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.127

Case No. : C. R. No. 5723 of 2023

Date of Decision : October 05, 2023

Pawan Kumar Parbhakar		Petitioner
	vs.	
Anita Beaspal		Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. G. S. Verma, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 12.09.2023 (Annexure P-2), passed by the learned Civil Judge (Junior Division), Phagwara (for brevity – Trial Court), whereby defence of the petitioner has been struck off.

2. The brief facts, as culled out from the paper-book, are that the respondent/plaintiff filed a suit for permanent injunction restraining the petitioner and another defendant from alienating/transferring any valuable, specific portion and more than their share and/or creating any charge on the suit property, without getting the property partitioned and further restraining them not to change the nature of the suit property.

3. Learned counsel for the petitioner submits that on the very first date, ex-parte interim order was issued. The petitioner appeared in the Court on the first date. These days, petitioner is residing in Austria and he constituted his Attorney to defend the suit on his behalf. He could not get instructions, so, adjournment was sought. The written statement was

prepared but due to certain corrections, it could not be filed. He has further contended that the circumstances were beyond the control of the petitioner, so, written statement could not be filed. Reliance has been placed on the case titled **Shaik Salim Haji Abdul Khayamsab vs. Kumar and others** reported as **2006(1) Apex Court Judgments (SC) 310**. He seeks only one chance for filing written statement.

4. I have heard the submissions made by learned counsel for the petitioner and also perused the case file.

5. It is a family dispute. The suit has been filed by a sister against her brother. Although there is inaction on the part of the petitioner but law is well settled that procedure is hand-maid to the administration of justice and is meant for advancement of justice. The respondent has already got status-quo order in her favour. So, no prejudice would be caused to the respondent.

6. Service of notice to the respondent is being dispensed with keeping in view if notice is issued to the respondent, it would cause financial burden on her as well as further delay in disposal of the case. Since learned counsel for the petitioner has submitted that the next date fixed before the Trial Court is 11.10.2023 and written statement shall be filed on that date, it would be in the interest of justice, if the instant revision petition is allowed and the impugned order is set aside.

7. Accordingly, the petition stands allowed and the order dated 12.09.2023 (Annexure P-2), passed by the learned Trial Court, whereby defence of the petitioner has been struck off, is set aside. The petitioner is directed to file written statement on 11.10.2023 positively, subject to

payment of Rs.10,000/- as costs, out of which Rs.5,000/- shall be paid to the respondent/plaintiff and Rs.5,000/- shall be deposited in the account of concerned District Legal Services Authority.

8. It is made clear that in case of default regarding payment of costs, this order shall automatically stand vacated.
9. If respondent is not satisfied with this order, then she can challenge the order within 30 days by moving application.

October 05, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.